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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,454	01/11/2002	Dennis M. Smid	720001-2001.1	8257

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EXAMINER

GLESSNER, BRIAN E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 04/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/043,454

Applicant(s)

SMID ET AL.

Examiner

Brian E. Glessner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 January 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Reissue Applications***

1. The original patent, or a statement as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

In response to the applicant's addition of new claims 22-28, the examiner would like to point out that the applicant must indicate the status of each new claim added, and he must also provide a statement disclosing where the claim is supported in the disclosure. The applicant indicated that claims 24-28 were amended. This is improper because claims 24-28 are new claims. Therefore, the applicant must correctly identify the claims in response to this office action. The applicant must also indicate where each claim is supported in the specification, i.e. page number and line or paragraph.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-21 and 23-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Robell (5,673,489).

In regard to claims 1-15, 18, 19, 23-25, and 27, Robell discloses a relatively thin frame covering panel, in the form of either wallboard, shower board, insulation, gypsum board,

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plywood, and any other material which must be cut to exact measurements, adapted to be attached to a number of supports, said panel having at least two sides in which at least one of said sides includes a number of marks, i.e. 4 and 14 (figures 1 and 2), for facilitating the attaching of said panel to said number of supports, wherein said number of marks are arranged in substantially parallel lines having a distance of 2 inches or less, i.e. 1 inch, therebetween and in which said lines are placed from one end of said panel to an opposite end thereof in a direction transverse to the extent of said lines. Robell further discloses that marks of a first set of lines have a first characteristic and marks of a second set of lines have a second characteristic, column 3, lines 15-20 and lines 30-41, in which each of a plurality of lines in said second set is adjacent one either side to a line in said first set (figure 2). Said first characteristic is a first color or a solid line and said second characteristic is a second color or a dotted line, and said panel is comprised of a piece of gypsum board or plywood, column 3, lines 10-12. Robell further discloses the use of a second set of lines that are perpendicular to said first set of lines, wherein said second set of lines are spaced from each other any value up to two inches and are placed from a second end of said panel to a second opposite end thereof.

In regard to claims 16, 17, 20, 21, 26, and 28, Robell discloses a method of fabricating a relatively thin frame, covering panel. Said method can inherently be seen in the above rejection of claims 1-15, 18, 19, 23-25, and 27. The method claims merely recite the apparatus claims in method form. Therefore, said method claims are rejected on the same grounds of rejection set forth with respect to the apparatus claims.

4. Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by Putz (4,858,402).

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In regard to claim 22, Putz discloses a relatively thin frame covering panel (figure 1) adapted to be attached to a number of supports, said panel having at least two sides in which at least one of said sides includes a number of marks (3) for facilitating the attaching of said panel to said number of supports, wherein said number of marks are arranged in substantially parallel lines having a distance therebetween which is substantially the same and different from a distance between an edge of the respective one side and the parallel line nearest thereto and in which said lines are placed from one end of said panel to an opposite end thereof in a direction transverse to the extent of said lines.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robell (5,673,489).

In regard to claim 22, Robell discloses a relatively thin frame covering panel (figure 1) adapted to be attached to a number of supports, said panel having at least two sides in which at least one of said sides includes a number of marks arranged in substantially parallel lines having a distance between them which is substantially the same for facilitating the attaching of said panel to said number of supports, said lines are placed from one end of said panel to an opposite end thereof in a direction transverse to the extent of said lines. Robell does not specifically disclose that said number of marks having a distance therebetween which is substantially

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different from a distance between an edge of the respective one side and the parallel line nearest thereto. However, Robell does disclose that the lines may be changed or arranged in any manner that would help aid in the use of the panel, column 3, lines 15-44. It would have been obvious to one having ordinary skill in the art at the time the invention was made to arrange the lines as disclosed by applicant, because one having ordinary skill in the art would be capable of arranging or highlighting the lines in any manner that would aid them in assembling the panel.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harris, Lee, Hassan, Libby, Berg, Kole et al., and Debo.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Glessner whose telephone number is 703-305-0031. The examiner can normally be reached on Monday-Friday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on 703-308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.



B.G.  
April 10, 2003

**BRIAN E. GLESSNER  
PATENT EXAMINER**